

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

T.W.,

Plaintiff,

v.

**WEST VIRGINIA DIVISION OF CORRECTIONS
AND REHABILITATION, C.O. LEGEND
CARTER, and C.O. JOHN DOES.**

Civil Action No.: 2:22-cv-00348

**(Removed from Circuit Court of
Kanawha County; Civil Action No 22-
C-318)**

Defendants.

NOTICE OF REMOVAL

To: Cathy Gatson, Clerk
Kanawha County Courthouse
P.O. Box 2351
111 Court Street
Charleston, WV 25301

Counsel for Plaintiff:
Paul M. Stroebel, Esq.
STROEBEL & STROEBEL PLLC
P.O. Box 2582
Charleston, West Virginia 25329

COMES NOW Defendant West Virginia Division of Corrections and Rehabilitation, by and through counsel, William E. Murray, Jaden Rhea, and the law firm of Anspach Meeks Ellenberger LLP, pursuant to 28 U.S.C. § 1331, 28 U.S.C. § 1367, and 28 U.S.C. § 1441, and states that it has removed this action from the Circuit Court of Kanawha County, West Virginia to the United States District Court for the Southern District of West Virginia upon the following grounds:

1. On or about August 15, 2022, this Defendant was served with a copy of a Summons and Complaint in an action commenced in the Circuit Court of Kanawha County, West Virginia, styled *T.W. v. West Virginia Division of Corrections and Rehabilitation, et al.*, Civil Action number 22-C-318, through service via process server. Copies of this Summons and Complaint along with the docket sheet for this action pending in Kanawha County, West Virginia, are attached hereto as **Exhibits 1 and 2**, respectively, as required by 28 U.S.C. §

1446(a).

2. This Notice of Removal has been filed and lodged with the Circuit Court of Kanawha County, West Virginia. No further proceedings have been had therein.

3. This Court has original jurisdiction over this civil action pursuant to 28 U.S.C. § 1331, in that the Complaint reveals a federal question, and is, therefore, one which may be removed to this Court by Defendants pursuant to 28 U.S.C. § 1441(a):

(a) Plaintiff, initials T.W. (hereinafter “Plaintiff”) asserts that while she was an inmate at South Central Regional Jail (SCRJ), Defendants failed to protect her from harm and she was sexually assaulted by a male inmate.

(b) In her Complaint, Plaintiff asserts theories of liability including, but not limited to: “The Defendants acted with deliberate indifference to the safety of plaintiff in violation of the Eight and/or Fourteenth Amendments to the Constitution of the United States of America.” (*Complaint 10*); “their conduct (deliberate indifference to a dangerous condition) was a violation of plaintiff’s constitutional rights under the Eight and Fourteenth Amendments.” (*Complaint 10*); and “violated the Constitution of the United States of America and gives rise to the action against the Defendants named herein” (*Complaint 11*),

3. Notice of Removal is filed timely.

4. The Kanawha County Circuit Court docket sheet (Exhibit 2) does not reflect a return of service of any other named defendant. **See Exhibit 2.**

5. Pursuant to 28 U.S.C. § 1446(b), notice of this removal is being filed with the Circuit Clerk of Kanawha County, West Virginia, and upon counsel of record. **See Exhibit 3.**

WHEREFORE, this Defendant has removed this action from the Circuit Court of Kanawha County, West Virginia to the United States District Court for the Southern District of

West Virginia. No further proceedings in this action can be had in the aforesaid circuit court.

Dated: August 19, 2022

**WEST VIRGINIA DIVISION OF
CORRECTIONS AND REHABILITATION,**

By Counsel

/s/ William E. Murray

William E. Murray, Esq. (WVSB #2693)

Jaden Rhea (WVSB #13454)

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Defendants.

CERTIFICATE OF SERVICE

I, William E. Murray, counsel for defendants, West Virginia Division of Corrections and Rehabilitation and C.O. Legend Carter, do hereby certify that on this 19th day of August, 2022, I electronically filed the foregoing ***“Notice of Removal”*** with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following CM/ECF participant:

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Counsel for Plaintiff

/s/ William E. Murray
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